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Subject: RE: Deck - Briefing to NSICOP on Emergencies Act

Hiya folks,

Just thought I'd share what my plan was when it comes to the top half of slide 4 in the deck for tomorrow's presentation (so you all know what I plan on saying).

Once it gets to slide 4 and comes to me, I'll go over the EM regs and highlight what they were. Once I have done that – will turn to RCMP and CBSA to explain how they were implemented (further illustrating why they were necessary). I would expect RCMP and CBSA could each offer up a few anecdotes that explain how they used the various powers to restore order and address the emergency at hand.

Then I would hand things over to Finance officials for the second half of slide 4 (to explain the EM economic order).

Please advise if anyone has any concerns with this approach.

Trying to convene quick call with RCMP and CBSA at 11am to make sure we are on same page.

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First and foremost, the Emergency Measures Regulations (EMR) allowed for the assistance of outside police officers in a much less administratively burdensome way than would otherwise have been the case; enabling the RCMP, municipal and provincial police services to join forces where necessary to enforce these regulations, and any provincial or municipal laws, without requiring officers to be sworn in.

In terms of a breakdown of the regulations that were introduced:

Section #2 –Prohibition – public assembly

This section prohibited public assemblies that may be reasonably expected to lead to a breach of the peace by: (a) the serious disruption of the movement of persons or goods or the serious interference

with trade; (b) the interference with the functioning of critical infrastructure; or (c) the support of the threat or use of acts of serious violence against persons or property.

This section also prohibited causing a minor to participate in such assemblies.

It also enabled the police to engage at an earlier point in time to prevent a breach of the peace/an unlawful assembly. Meaning these provisions authorized police to stop vehicles and people entering areas where there were already unlawful assemblies or where such assemblies were anticipated. This authority operated together with the City of Ottawa injunction and the police ancillary powers doctrine in common law to secure the perimeter in Ottawa.

Section #3 – prohibition entry to Canada

This section prohibited foreign nationals from crossing the border to support the prohibited assemblies.

A foreign national was not to enter Canada with the intent to participate in or facilitate a prohibited assembly. Foreign nationals who sought to enter Canada for these purposes were denied boarding prior to departure, and/or denied entry at a port of entry.

Section #4 – Restriction on travel

This section prohibited travelling to or within an area where a prohibited assembly was taking place. It clearly empowered police to intercept convoys headed to Ottawa or other protest sites and to warn drivers of the prohibition. There are instances where, prior to the invocation of the EA, police were uncertain of their powers to turn trucks around. It is unclear that the police have these powers under common law. The EA provided additional authority that had a direct influence on protest participants.

Section #5 – Use of property – prohibited assembly

This section prohibited a person from facilitating or participating in a prohibited assembly by directly or indirectly using or collecting property, such as supplies; by providing or inviting someone to provide property; or, by making available property for such activity.

This provision was meant to restrict the re-provisioning of food and fuel to protestors. The provision of fuel was of particular concern given the potential use of fuel for violent purposes.

Section #6 – Designation of protected places

This designated specific places as "protected" and authorized police to secure them. It therefore enabled the further securing of certain designated public places, including ports of entry, customs offices, and other critical infrastructure and government buildings.

Section #7 – Direction to render essential goods and services

This order required towing companies to provide essential goods and services for the removal, towing and storage of any vehicle, equipment, structure or other object that was part of a blockade on request

of the Minister of Public Safety and Emergency Preparedness, Commissioner of RCMP (Commissioner), or person acting on their behalf – which was an obvious gap given certain companies refusing to assit law enforcement in such endeavours prior to the invoking of the EA.

OTHER – contravention of regulations – fines and imprisonment

For those who did not comply, there were penalties such as fines (up to $500) and/or imprisonment (up to 5 years)

The declaration of the EA itself and its clear prohibitions, together with the penalties in the EMR may have had a deterrent effect for at least some protest groups in how they conducted themselves.

For the Emergency Economic measures order I will turn things over to my Finance colleagues...